

ORIGINAL

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FILED
DISTRICT COURT OF GUAM
AUG 16 2005 *MP*
MARY L.M. MORAN
CLERK OF COURT

**IN THE UNITED STATES
DISTRICT COURT OF GUAM
TERRITORY OF GUAM**

PEOPLE HOLDINGS CO., LTD.,)
)
Plaintiff,)
)
vs.)
)
SUN Y. WAKUGAWA and KOWON)
SHIPPING CORP.)
)
Defendants.)
)

Civil Case No. **03-00034**

**MOTION TO WITHDRAW
AS COUNSEL OF RECORD**

*** * * MOTION * * ***

COMES NOW, MUN SU PARK, ESQ., of the Law Office of Mun Su Park, Attorney-At-Law, and hereby requests this Court for permission to withdraw as Counsel of record for plaintiff PEOPLE HOLDINGS CO., LTD, partly due to the plaintiff's failure to cooperate and maintain the contact needed with this Office to effectively represent him.

*** * * MEMORANDUM OF POINTS AND AUTHORITIES * * ***

This request to withdraw is made in compliance with the spirit and letter of the Code of Professional Responsibility, and with the desire not to prejudice the rights of the Client in this matter.

The Code of Professional Responsibility states, at Cannon 2:

"A lawyer should assist the legal profession in fulfilling its duty to make legal counsel available."

Ethical Consideration 2-32, of Cannon 2, States also that:

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2 compelling circumstances, and in a manner pending before a tribunal he must
3 comply with the rules of the tribunal regarding withdrawal. A lawyer should not
4 withdraw without considering carefully and endeavoring to minimize the possible
5 adverse effects on the rights of his client and the possibility of prejudice to the client
6 as a result of his withdrawal. Even when he justifiably withdraws, a lawyer should
7 protect the welfare of his client by giving due notice of his withdrawal, suggesting
8 employment of other counsel, delivering to the client all papers and property to
9 which the client is entitled, cooperating with the counsel subsequently employed,
10 and otherwise endeavoring to minimize the possibility of harm. Further, he should
11 refund to the client any compensation not earned during the employment."
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13 Cannot 2 of the Code of Professional Responsibility is defined by disciplinary rules.
14 Disciplinary Rule 2-110, states at (A) (2):

15 "In any event, a lawyer shall not withdraw from employment until he has
16 taken reasonable steps to avoid foreseeable prejudice to the rights of his client,
17 including giving due notice to the client, allowing time for employment of other
18 counsel, delivering to the client all papers and property to which the client is
19 entitled, and complying with applicable laws and rules."

20 Disciplinary Rule 2-110 goes on to state at (C) (1) (d):

21 "Permissive Withdrawal. If D.R. 2-110(B) is not applicable, a lawyer may not
22 request permission to withdraw in matters pending before a tribunal, and may not
23 withdraw in other matters, unless such request or such withdrawal is because: (1)
24 His client ... (d) By other conduct renders it unreasonably difficult for the lawyer to
25 carry out his employment effectively."

26 The intent of Cannon 2 is to protect clients from unwarranted action by their attorney which
27 leaves them unrepresented in litigation. The Cannon, however, makes it clear through its
28 interpretation that lawyer can and must withdraw from representing a client when an action of the
clients makes it impossible for the lawyer to effectively represent the client.

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2 For these reasons, Mun Su Park, Esq., and the Law Office of Park, respectfully requests that
3 they be permitted to withdraw as counsel of record for the Defendant herein.
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5 Respectfully submitted this 16th day of August, 2005.
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7 LAW OFFICE OF
8 PARK

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10 MUN SU PARK, ESQ.
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12 **EXECUTION AND PROOF OF SERVICE**
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14 I hereby certify that on August 16, 2005, I personally mailed via US mail, a copy of *Motion*
15 *to Withdraw as Counsel of Record* and the *Declaration in Support of Motion to Withdraw as*
16 *Counsel of Record* on:
17

18 PEOPLE HOLDINGS CO., LTD.
19 Director H. B. Kim
20 K.P. O. Box 1888
Soul, 110-618, Korea

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22 LAW OFFICE OF
PARK

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